

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 467 of 2000

With

CIVIL APPLICATION No 7888 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

POPATBHAI MADHABHAI C/O PD GADHVI

Appearance:

MR RV DESAI, AGP for Petitioner

MRS SUMAN KHARE for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 14/12/2000

ORAL JUDGEMENT

#. Rule. Ms.Suman Khare waives service of rule on
behalf of the respondent - workman.

#. This petition has been filed by the State of Gujarat challenging the award of the Labour Court, Junagadh passed in Reference (LCJ) No.103/95. The dispute was raised by the respondent herein on the ground that his services were terminated illegally from 15.11.1994 and no procedure was followed. By the award dated 29.5.1999 the Labour Court, Junagadh allowed the reference by setting aside the termination order and the concerned workman was reinstated in service with full backwages.

#. Mr.Desai, learned AGP has argued that the respondent-workman has served for two years and 10 months as a Rojamdard Driver. As against that, it was argued by Ms.Khare for the respondent that he has served for more than 240 days and that without following any procedure of law, his services were terminated. Even though he was ready to serve, his services were terminated by the Department. It was also stated that, even casual employee will be entitled to the benefits under the Industrial Disputes Act. It is not in dispute that the employer has not produced any muster roll on record and production of any document in this petition has no relevance, and therefore the Labour Court has accepted the say of the employee that he has served for more than 240 days. After considering the facts and circumstances of the case, aforesaid order of reinstatement was passed by the Labour Court.

#. Ms.Khare for the respondent further states that, the respondent is willing to forgo the claim of backwages.

#. In view of the aforesaid statement of Ms.Khare, learned AGP Mr.Desai states that the Department has no objection to continue the respondent on the same line and basis in which he was serving before his termination and he can be given work at any place available in the entire Gujarat. However, it is hoped by this court that, considering the fact that, the respondent was serving as Rojamdard Driver and now he is reinstated on the said post, the Department may try to accommodate as far as possible in the Junagadh District or atleast within nearby area from Junagadh District. It is clarified that, the respondent will be required to be reinstated on the post which was holding before his termination as Rojamdard Driver and whatever other benefits which otherwise he is entitled to get, may be given to him.

#. In view of the aforesaid facts and circumstances of the case, the award of the Labour Court dated 29.5.1999 passed in Reference (LCJ) No.103/95 is modified to the

aforesaid extent and the respondent is ordered to be reinstated in service as Rojamdard Driver with continuity of his service without any benefit of backwages. The petitioner is directed to reinstate the respondent in service latest by 1.1.2001, and therefore, naturally the respondent will be entitled to regular salary from the aforesaid date.

#. The petition is accordingly partly allowed. Rule is made absolute to the aforesaid extent only with no order as to costs.

#. In view of the aforesaid order in main special civil application, no order in Civil Application No.7888/2000 and the same is disposed of accordingly.

(P.B.Majmudar,J)
(pathan)